

JAN 27 2009

WOOD, HERRON & EVANS, L.L.P.

BRUCE TITTEL
DAVID S. STALLARD
J. ROBERT CHAMBERS
GREGORY J. LUNN
KURT L. GROSSMAN
CLEMENT H. LUKEN, JR.
THOMAS J. BURGER
GREGORY F. AHRENS
WAYNE L. JACOBS
KURT A. SUMME
KEVIN G. ROONEY
KEITH R. HAUPT
THEODORE R. REMAKLUS
THOMAS W. HUMPHREY
SCOTT A. STINEBRUNER
DAVID H. BRINKMAN
KRISTIL DAVIDSON
KATHRYN E. SMITH
P. ANDREW BLATT, Ph.D.
DAVID E. JEFFERIES
J. DWIGHT POFFENBERGER, JR.
WILLIAM R. ALLEN, Ph.D.
JOHN PAUL DAVIS
BRETT A. SCHATZ
SARAH OTTE GRABER

2700 CAREW TOWER
441 VINE STREET
CINCINNATI, OHIO 45202-2917

TELEPHONE: 513-241-2324

FACSIMILE: 513-241-6234

WEBSITE: www.whepatent.com

PATENT, TRADEMARK, COPYRIGHT
AND UNFAIR COMPETITION LAW
AND RELATED LITIGATION

EDMUND P. WOOD 1923-1968
TRUMAN A. HERRON 1935-1978
EDWARD B. EVANS 1936-1971

DAVID W. DORTON
STEVEN W. BENINTENDI, Ph.D.
RANDALL S. JACKSON, JR.
ADAM R. WEEKS
CHARLES R. FIGER, JR.
KEVIN E. KUEHN
ANA C. JAQUEZ
COLIN L. WIER
TIMOTHY D. ARDIZZONE, Ph.D.
RAMON A. URTEAGA
CHASTITY D. S. WHITAKER, Ph.D.
HARRY J. GUTTMAN, Ph.D.

OF COUNSEL
JOHN D. POFFENBERGER
DAVID J. JOSEPHIC
DONALD F. FREI
THOMAS W. FLYNN
JOSEPH R. JORDAN
C. RICHARD EBY

PATENT AGENT
MICHAEL H. SCHENKER

January 26, 2009

FACSIMILE COVER SHEET

To:	Company:	Fax Number:
Examiner Daniel Kesack	US Patent Office Group Unit No. 3691	571-273-8300
Total Pages:	24 (including cover sheet)	
From:	Thomas W. Humphrey	
Re:	i Attorney Docket: MPS-30DV3 US Application Serial No. 09/859,615 Filed May 16, 2001 System and Method For Paying Bills and Other Obligations Including Selective Payor and Payee Controls	

If transmission is interrupted or of poor quality, please notify us immediately by calling LKoehler at (513) 241-2324

OUR FAX NUMBER IS (513) 241-6234.

Message/Comments

Attached is an Appeal Brief. Please Apply the Appeal Brief and Extension of Time Fee to Account 23-3000.

Confirmation copy will not follow.

The information in this facsimile message is ATTORNEY-CLIENT PRIVILEGED, WORK PRODUCT and/or CONFIDENTIAL INFORMATION intended only for the use of the individual or entity to whom this message is addressed. If the reader of this message is not the intended recipient or the employee or agent responsible for delivering it to the intended recipient, you are hereby notified that any dissemination, distribution or reproduction of this communication is strictly prohibited. If you have received this communication

**RECEIVED
CENTRAL FAX CENTER
JAN 27 2009**

PATENT
ATTY. DOCKET NO. MPS-03DV3

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Ex parte

Appeal No. _____

Serial No.: 09/859,615
Filed: May 16, 2001
Group Art Unit: 3691
Examiner: Daniel Kesack
Applicant: George W. Landry
Title: System And Method For Paying Bills And Other Obligations
Including Selective Payor And Payee Controls

Cincinnati, Ohio 45202

January 26, 2009
Via Facsimile

APPEAL BRIEF

This brief is in furtherance of Applicant's Notice of Appeal filed August 26, 2008, appealing the decision of the Examiner dated February 26, 2008 finally rejecting claims 25-58. A copy of the claims appears in the Appendix to this brief.

Certificate of Facsimile Transmission

I hereby certify that this correspondence and any enclosures are being electronically transmitted via facsimile on the date indicated below.

/ Thomas W. Humphrey /
Thomas W. Humphrey
Reg. No. 34,353

January 26, 2009
Date

**RECEIVED
CENTRAL FAX CENTER
JAN 27 2009**

Real Party In Interest

The real party in interest in this appeal is MIDWEST PAYMENT SYSTEMS, an Ohio corporation of having a place of business at 38 Fountain Square Plaza, Cincinnati, Ohio 45263.

Related Appeals and Interferences

There are no such appeals or interferences.

Status of Claims**Total Number of Claims in the Application**

Claims in the application are 25-58.

Status of all the Claims

1. Claims cancelled: 1-24
2. Claims withdrawn from consideration but not cancelled: NONE
3. Claims objected to: NONE
4. Claims allowed or confirmed: NONE
5. Claims rejected: 25-58

Claims on Appeal

The claims on appeal are Claims 25-58.

Status of Amendments

There are no amendments pending.

Summary of Claimed Subject Matter as to Independent Claim 25

Independent Claim 25 is described in the specification on page 38, lines 3-18 and Fig. 3, reference numbers 112, 120 and 150, and on page 49, line 11 through page 50, line 2, and Fig. 7 of the drawings.

As recited in claim 25, a bill paying system stores information for payees, and payors, including parameters established for enabling transfers of funds from a payee to a payor by a funds transfer generator. A communication device receives bill data from a plurality of payees and causes an interactive device to present the plurality of transactions representing bills of at least two different payees.

Summary of Claimed Subject Matter as to Independent Claim 42

Independent Claim 42 is described in the specification on page 38, lines 3-18 and Fig. 3, reference numbers 112, 120 and 150, and on page 49, line 11 through page 50, line 2, and Fig. 7 of the drawings.

As recited in claim 42, a bill paying method involves storing information for payees, and payors, including parameters established for enabling transfers of funds from a payee to a payor by a funds transfer. Funds transfers are generated based on bill data, and the stored information. The bill data from a plurality of payees is received and is presented on an interactive device.

Grounds of Rejection

Claims 25-38, 40-55, 57 and 58 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Kight, U.S. Patent No. 5,383,113, in view of Pickering, U.S. Patent No. 5,483,445, as cited in the Final Office Action.

Argument

Applicant submits that the Examiner has failed to present a prima facie case of obviousness of the rejected claims based on the cited Kight and Pickering references.

Furthermore, Applicant submits that the Examiner has improperly applied the standard of obviousness in asserting the combination of the cited Kight and Pickering references.

PAGE 10/10 * RCVD AT 1/27/2009 12:52:59 AM [Eastern Standard Time] * SVR:USPTO-EFXRF-4/16 * DNIS:2738300 * CSID:5137720052 * DURATION (mm-ss):09-42

BEST AVAILABLE COPY